

# **EXHIBIT 5**

## **PUBLIC VERSION**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION  
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IN RE: HIGH-TECH EMPLOYEE )  
ANTITRUST LITIGATION ) No. 11-CV-2509-LHK  
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-HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY-

VIDEOTAPED DEPOSITION OF BRANDON MARSHALL  
San Francisco, California  
Monday, October 22, 2012  
Volume I

Reported by:  
ASHLEY SOEVYN  
CSR No. 12019  
Job No. 1541283

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1 responses, do you remember indicating in your 11:29:54  
2 response how you learned about the Sandhill 11:29:56  
3 position? 11:29:58  
4 A. I don't know whether I indicated that in my 11:30:00  
5 response. 11:30:02  
6 Q. You don't recall? 11:30:04  
7 A. I don't recall. 11:30:06  
8 Q. As you sit here today, you don't recall 11:30:09  
9 whether you learned of the Sandhill position through 11:30:12  
10 an online recruitment website? 11:30:15  
11 A. I don't recall. 11:30:20  
12 Q. Have you ever used online recruitment 11:30:21  
13 websites? 11:30:25  
14 A. Oh, I've used online -- I guess so. 11:30:27  
15 Depending on how you characterize "online 11:30:28  
16 recruitment," I'd say yes. 11:30:32  
17 Q. How would you characterize it? 11:30:33  
18 A. Well, I will just tell you the websites 11:30:34  
19 that I have used. I have used Dice, Monster, a long 11:30:37  
20 time ago. Those ones I haven't used in a while. 11:30:42  
21 Hot Jobs was one that was formally a big deal, 11:30:45  
22 things like that. 11:30:49  
23 Q. Can you list the other websites that you've 11:30:50  
24 used? 11:30:52  
25 A. More recently I used Indeed. It seems to 11:30:53

1	be a good one nowadays.	11:30:57
2	Q. Anything else?	11:31:01
3	A. I probably have, but I can't think of any	11:31:02
4	others.	11:31:05
5	Q. Anything else that you've used before that	11:31:05
6	you haven't listed?	11:31:10
7	MR. GLACKIN: Asked and answered.	11:31:12
8	THE WITNESS: I probably have. I don't	11:31:15
9	remember.	11:31:17
10	BY MS. KAHN:	11:31:18
11	Q. And how do you use these websites?	11:31:18
12	A. Each website has its own interface you --	11:31:21
13	some of them -- I think some of them you upload your	11:31:24
14	resume. Oh, I'll tell you another one, LinkedIn.	11:31:29
15	Everybody uses LinkedIn, there you go.	11:31:33
16	Q. Thank you. Anything else comes to mind?	11:31:40
17	A. Just the fact that I'm on LinkedIn like	11:31:42
18	everyone else.	11:31:46
19	Q. So just walk me through how you would use	11:31:48
20	one of these websites. Let's say LinkedIn?	11:31:50
21	A. On LinkedIn, you have people you've worked	11:31:56
22	with in the past that you connect to and that you --	11:31:58
23	they are part of your network, like Facebook for job	11:32:04
24	networking and recruiters ping you on there, too.	11:32:10
25	Q. Recruiters what?	11:32:17

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1 Q. When you went on Monster and you had that 11:45:29  
2 thought that it's not as robust as the other 11:45:31  
3 websites, was it because you had seen additional 11:45:34  
4 jobs on other websites that you were not seeing on 11:45:40  
5 Monster? 11:45:43

6 A. I don't know. 11:45:47

7 Q. Did you have a sense of what job 11:45:58  
8 opportunities were out there, you were just not 11:46:00  
9 seeing it on Monster? 11:46:02

10 MR. GLACKIN: Objection, vague. 11:46:03

11 THE WITNESS: No, I did not have a sense of 11:46:05  
12 what job opportunities were out there. That's why I 11:46:06  
13 was looking online to try to get a sense of what job 11:46:09  
14 opportunities were out there. 11:46:13

15 BY MS. KAHN: 11:46:15

16 Q. And is looking online an effective way of 11:46:15  
17 finding out about job opportunities? 11:46:17

18 A. It seemed to be a primary way to find out 11:46:19  
19 job opportunities. To look online and to network 11:46:23  
20 with associates of yours are two primary ways people 11:46:25  
21 find jobs. 11:46:32

22 Q. Do you network as a means of finding a job 11:46:44  
23 opportunity? 11:46:47

24 A. And also I'd like to amend what I said. 11:46:47  
25 When I say "look online," I mean make yourself 11:46:50

1 do you mean by that? 11:49:54

2 A. I mean that compensation can be paid in a 11:49:55

█ [REDACTED] [REDACTED] [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED] [REDACTED] [REDACTED]

7 corporate -- big company perks and things like that, 11:50:20

8 so they both have their advantages and they're both 11:50:24

9 kind of critical in pieces where you think about 11:50:29

10 where you want to work. Start-ups have more risk 11:50:32

11 and fewer perks. You have to take those into 11:50:38

12 account. 11:50:41

13 Q. Do you have a preference for yourself in 11:50:42

14 terms of what you prefer? 11:50:44

15 A. No, I mean, I prefer -- it's really a 11:50:46

16 complex sort of decision that goes into it. There's 11:50:49

17 a lot of factors. 11:50:52

18 Q. And just going back to the list that you 11:50:57

19 were providing, anything else that you talked to 11:50:59

20 co-workers about job opportunities? 11:51:00

21 A. Commute distance. That's probably 11:51:04

22 important, too. Turned down a job in San Francisco 11:51:07

23 because that was too far. 11:51:12

24 Q. Sorry you have to be here today. 11:51:18

25 A. It's okay. 11:51:20

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1 A. Yeah. 13:33:14

2 Q. It's an e-mail chain. At the top, it's an 13:33:14

3 [REDACTED] [REDACTED]

4 2005? 13:33:21

5 A. Yeah. 13:33:22

6 Q. Did you receive that e-mail? 13:33:23

7 MR. GLACKIN: Read as much of the e-mail as 13:33:26

8 you have to to answer the question. 13:33:29

9 THE WITNESS: Okay. Yeah, okay. 13:33:30

10 BY MS. KAHN: 13:33:59

11 Q. You received that e-mail? 13:33:59

12 A. Uh-huh. 13:34:00

13 Q. Did you draft that e-mail that's in the 13:34:01

14 middle of the e-mail chain there? 13:34:03

15 A. Yeah, I believe I did. 13:34:05

16 [REDACTED] [REDACTED]

17 [REDACTED] [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED] [REDACTED]

20 [REDACTED] [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED]

24 [REDACTED] [REDACTED]

25 [REDACTED] [REDACTED]

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1 a sales position; is that right? 18:06:22

2 A. I don't know who this is reaching out to 18:06:25

3 me. Seems like spam. 18:06:27

■ ■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

9 A. Uh-huh. 18:06:44

10 Q. Why did you say you're not willing to cold 18:06:45

11 call people? 18:06:47

12 A. I'm not a person who likes to do anything 18:06:48

13 related to calling people on the phone. I'm an 18:06:56

14 engineer because I want to be the type of person who 18:07:01

15 works on projects, not the type of person who calls 18:07:05

16 people on the phone. I think that this was 18:07:10

17 facetious or sarcastic because this person e-mailed 18:07:12

18 me five times, according to this. And I don't know 18:07:21

19 that I had any serious interest in talking to them 18:07:24

20 about anything. 18:07:28

21 Q. Did you ever set up your spam filter to 18:07:31

22 filter out any e-mails from recruiters? 18:07:34

23 A. I probably set them up to filter out from 18:07:38

24 certain recruiters who would not -- who I didn't 18:07:41

25 think were legitimate recruiters or the ones who 18:07:45

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1       spammed me with, you know, various requests that       18:07:49  
2       went, "Hey, do you want to pick up this job in       18:07:51  
3       Connecticut?" You know, where I clearly had       18:07:52  
4       indicated wherever it was I was looking for a job at       18:07:58  
5       the time, but I was not open to relocating to a       18:08:02  
6       different state or something like that. So if I --       18:08:04  
7       if I find a recruiter that's not -- at that point I       18:08:05  
8       don't even know if I would call them a recruiter or       18:08:08  
9       spammer. If someone is sending massive amounts of       18:08:10  
10      e-mail that I don't want, I do filter it out.       18:08:15  
11           Q.     So how would you do that? You would put       18:08:17  
12      the specific recruiter in a spam filter?       18:08:20  
13           A.     I might just put a portion of the       18:08:22  
14      recruiter's e-mail in a spam filter.       18:08:24  
15           Q.     Did you produce documents from your spam       18:08:28  
16      folder?       18:08:29  
17           A.     I've produced all documents, including       18:08:30  
18      documents from my spam filter I -- that would --       18:08:32  
19      although, I believe the spam filter probably has an       18:08:35  
20      automatic purge function. I believe Gmail does have       18:08:38  
21      an automatic purge function for spam after 30 days.       18:08:42  
22      So I produced all documents that were available to       18:08:47  
23      me which the key words that were indicated and that       18:08:50  
24      includ- -- that included any that might have been in       18:08:53  
25      the spam filter.       18:08:55

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1 STATE OF CALIFORNIA ) ss:

2 COUNTY OF MARIN )


3  
4 I, ASHLEY SOEVYN, CSR No. 12019, do hereby  
5 certify:

6 That the foregoing deposition testimony was  
7 taken before me at the time and place therein set  
8 forth and at which time the witness was administered  
9 the oath;

10 That the testimony of the witness and all  
11 objections made by counsel at the time of the  
12 examination were recorded stenographically by me,  
13 and were thereafter transcribed under my direction  
14 and supervision, and that the foregoing pages  
15 contain a full, true and accurate record of all  
16 proceedings and testimony to the best of my skill  
17 and ability.

18 I further certify that I am neither counsel for  
19 any party to said action, nor am I related to any  
20 party to said action, nor am I in any way interested  
21 in the outcome thereof.

22 IN THE WITNESS WHEREOF, I have transcribed my  
23 name this 1st day of November, 2012.

24  
25   
ASHLEY SOEVYN  
CSR NO. 12019

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